

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON AGRICULTURE

Call to Order: By **CHAIRMAN EDWARD B. BUTCHER**, on April 12, 2005
at 3:13 P.M., in Room 472 Capitol.

ROLL CALL

Members Present:

Rep. Edward B. Butcher, Chairman (R)
Rep. Carol Lambert, Vice Chairman (R)
Rep. Jonathan Windy Boy, Vice Chairman (D)
Rep. Joan Andersen (R)
Rep. Bob Bergren (D)
Rep. Gary Branae (D)
Rep. Wanda Grinde (D)
Rep. Ralph Heinert (R)
Rep. Llew Jones (R)
Rep. Jim Keane (D)
Rep. Bruce Malcolm (R)
Rep. Jim Peterson (R)
Rep. Diane Rice (R)
Rep. John (Jack) W. Ross (R)
Rep. Veronica Small-Eastman (D)
Rep. Dan Villa (D)
Rep. Karl Waitschies (R)
Rep. Jeanne Windham (D)
Rep. Brady Wiseman (D)

Members Excused: Rep. Kevin T. Furey (D)

Members Absent: None.

Staff Present: Linda Keim, Committee Secretary
Krista Lee Evans, Legislative Branch

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted:
Executive Action: SB 293

EXECUTIVE ACTION ON SB 293

Motion: REP. PETERSON moved that SB 293 BE CONCURRED IN.

Motion: REP. PETERSON moved that AMENDMENT SB 029304 BE ADOPTED.
EXHIBIT(agh78a01)

Discussion:

REP. PETERSON explained the bill and asked Ms. Evans to further explain the amendments.

CHAIRMAN BUTCHER said there are two amendments that are almost identical.

Ms. Evans explained the amendments. She said that REP. PETERSON's amendment removes the mandate.

REP. PETERSON said he fully supports having this go forward but he wants to let the market forces work instead of having a mandate. This amendment does not provide for blending because it would not comply with the incentives.

Ms. Evans explained they weren't blending the gas because of Federal regulations that do not allow the mid-blend to be at 4.5%.

REP. JONES discussed the amendment and said he will be opposing it.

REP. BERGREN said that he echoed REP. JONES sentiments and urged the Committee to reject the amendment.

REP. RICE said she will support the amendment because of the experience her sister had using Ethanol. She does not want to set out a mandate.

REP. WAITSCHIES said that he supports the amendment because he does not like mandates. He stated that if this is mandated it is asking for something that is currently not economical. He said, "Let the people choose it on the basis of price." He further stated that mandates tromp on people's freedom.

{Tape: 1; Side: A; Approx. Time Counter: 0 - 9.8}

Vote: Motion failed 8-12 by roll call vote with REP. ANDERSEN, REP. HEINERT, REP. LAMBERT, REP. MALCOLM, REP. PETERSON, REP. RICE, REP. ROSS, and REP. WAITSCHIES voting aye. REP. FUREY voted by proxy.

Motion: REP. BERGREN moved that AMENDMENT SB029301 BE ADOPTED.

Discussion:

REP. BERGREN explained the amendment.

Discussion:

Substitute Motion: REP. BUTCHER moved to SEGREGATE OUT SUBSECTION 2c ON PAGE 12 of SB029301.

CHAIRMAN BUTCHER explained that all other loans in Statute are for 15 years and he feels that 30 years is too long. He wants this to conform to other language.

Ms. Evans explained that on Page 12, Subsection 2c, the new language that was added in would be taken out of the amendment.

Ms. Evans said the Committee will vote on whether or not to include that language in the amendment, then they can vote on all the amendments.

REP. BERGREN said he supported amending that section out so they can vote on the amendments as a whole.

Vote: Motion carried unanimously 20-0 by voice vote. REP. FUREY voted by proxy.

{Tape: 1; Side: A; Approx. Time Counter: 9.8 - 15}

REP. PETERSON noted that the amendment is now without Sub 2c.

CHAIRMAN BUTCHER clarified that everything else is intact. The 30-year period was amended out and everything reverts back to 15.

Vote: Motion carried 13-7 by roll call vote with REP. ANDERSEN, REP. LAMBERT, REP. MALCOLM, REP. PETERSON, REP. RICE, REP. ROSS, and REP. WAITSCHIES voting no. REP. FUREY voted by proxy.

{Tape: 1; Side: A; Approx. Time Counter: 15 - 16.5}

Motion: REP. LAMBERT moved that SB 029308 BE ADOPTED with the CONCEPTUAL CHANGE to a five-year termination date in Section 12. [EXHIBIT](#)(agh78a02)

Discussion:

CHAIRMAN BUTCHER said this is basically a compromise and follows what REP. JONES said about every patent having an expiration date. He said that it is because of the strong feeling against having a mandate.

REP. PETERSON responded that this is not a new idea, and doesn't need a patent. It is something being produced nationwide.

Vote: Motion carried unanimously 20-0 by voice vote. REP. FUREY voted by proxy.

{Tape: 1; Side: A; Approx. Time Counter: 16 - 18.5}

Motion: REP. ANDERSEN moved that SB 293 BE CONCURRED IN AS AMENDED.

Motion: REP. ANDERSEN moved that SB 029307 WITH CONCEPTUAL CHANGE on Page 2b (i) to 20% and on Page 2b (ii) to 25% BE ADOPTED.

EXHIBIT(agh78a03)

Discussion:

REP. ANDERSEN explained that the amendment will require the use of Montana grain.

{Tape: 1; Side: A; Approx. Time Counter: 18.5 - 22}

REP. ROSS asked what happened after the seventh year. REP. ANDERSEN agreed that it could drop to zero but she understood that the incentives go off then too. She stated that even without the incentives it would probably not drop to zero because the plants would have producers in that area providing material that would be cheaper because shipping costs would be lower.

{Tape: 1; Side: A; Approx. Time Counter: 22 - 22.9}

CHAIRMAN BUTCHER asked Ms. Evans if everything was in the amendment and Ms. Evans clarified that it was.

REP. BERGREN said he would support the amendment.

Vote: Motion carried unanimously 20-0 by voice vote. REP. FUREY voted by proxy.

Motion: REP. KEANE moved that SB 293 BE CONCURRED IN AS AMENDED.

Motion: REP. KEANE moved that SB 029302 BE ADOPTED.

EXHIBIT(agh78a04)

Discussion:

REP. KEANE explained the amendment. Once they reach 55 million gallon level of production it has to be maintained for three months or the bill would not be in effect. The mandate would go in 18 months later and if they drop below 30 million gallons

there will be no mandate. It would require them to meet the production levels they told this Committee they would meet.

{Tape: 1; Side: A; Approx. Time Counter: 22.9 - 25.6}

REP. BERGREN asked if this takes the time period from 12 months to 18 months. **Ms. Evans** explained and said that was correct.

REP. BERGREN clarified that the mandate would kick in 18 months after the first three months of certified production. **Ms. Evans** said it would kick in 18 months after the Department has certified that the State of Montana has produced 55 million gallons of denatured Ethanol and maintained that production for three months.

CHAIRMAN BUTCHER further clarified that there could be two or three plants that would maintain that production. It is the total production within the state.

REP. KEANE stated he did not care how they got to 55 million; it just needs to be a consistent level of production in Montana.

REP. BERGREN said he could support this if they could go back to a time period of 12 months and segregate that out.

REP. KEANE asked Ms. Evans if that would create a problem. **Ms. Evans** said it could be done more easily as a Conceptual Amendment.

{Tape: 1; Side: A; Approx. Time Counter: 25.6 - 29.8}

CHAIRMAN BUTCHER asked **REP. KEANE** if he was comfortable with changing the time period back to 12 months. **REP. KEANE** responded that the reason for the 18 months is to see that the Ethanol will be produced in Montana. This guarantees it will be produced. After that they have to give the refineries time to build their infrastructure to sell the Ethanol. He did not think that 18 months was an unreasonable length of time.

REP. HEINERT noted the determination of the 55-million-gallon production is going to be based on the average monthly production multiplied by 12 to come up with 55 million and asked how they determine over that three-month period that they are hitting the required production level.

{Tape: 1; Side: A; Approx. Time Counter: 29.8 - 31.2 Comments: Continued on Tape 1B}

REP. KEANE responded to **REP. HEINERT** that the production level they have to hit for three months is found by dividing 55 million by 12. The first month they hit that number they have to

maintain it for three months, but then it is 18 months from the first month.

REP. HEINERT asked if they hit it for a month and drop back, would their three months start over again the next time they hit it. **REP. KEANE** said that was correct.

REP. KEANE said Ethanol only needed an incentive when this started but now there is the need for a mandate. The mandate needs to have conditions on it to make it a believable mandate. He said that the Ethanol people need to prove to Montana that they can have a mandate by producing the Ethanol. This would ensure that plants are up and running for a period of time; and also would help the oil companies see they are part of Montana's market and that they need to build their infrastructure.

REP. HEINERT said he agreed with **REP. KEANE** and asked if the Ethanol people will be able to obtain financing without the mandate already in place.

REP. KEANE said if they are going to a bank they have to show there will be a mandate and how they will get there. He is trying to protect having an industry in Montana that will build the plants and use our products.

REP. BERGREN said using the gallons instead of a date certain is a high standard to attain, but they also have to maintain that. He stated that if a plant goes down for some reason they should have an opportunity to bring production levels back up.

CHAIRMAN BUTCHER pointed out that there will be at least two plants in the state, so if one drops in production it should average out. One plant would not be carrying all of the load.

{Tape: 1; Side: B; Approx. Time Counter: 0 - 5.3}

REP. JONES asked for clarification on the production. **REP. KEANE** said the clock is ticking on the 18 months with the first month. It is figured on 15 months after the first three months.

REP. JONES said the language might not be worded that way and asked Ms. Evans to comment whether it is 15 or 21 months. He asked what happens after the three months, if in the 5th month it drops to 2.5 million. He asked if is okay if it hits as low as 2.5 million a month on the 30 million floor. **REP. KEANE** verified that was correct.

Ms. Evans said it should be 21 months and explained. She said the 18 could be changed to 15 if **REP. KEANE** chose to do so.

REP. BERGREN asked **REP. KEANE** to conceptually move that idea.

REP. KEANE said that he would be moving it to 12 months, but there would be three months on top of that.

Ms. Evans explained how to make the change on the amendment.

Substitute Motion/Vote: **REP. KEANE** moved that SB029302 WITH CONCEPTUAL CHANGE to 12 months BE ADOPTED. Motion carried 15-5 by roll call vote with **REP. BERGREN**, **REP. FUREY**, **REP. HEINERT**, **REP. SMALL-EASTMAN**, and **REP. WINDHAM** voting no. **REP. FUREY** voted by proxy.

{Tape: 1; Side: B; Approx. Time Counter: 5.3 - 10.6}

Motion: **REP. BERGREN** moved that SB 293 BE CONCURRED IN AS AMENDED.

Motion: **REP. KEANE** moved that SB 029306 BE ADOPTED.
[EXHIBIT](#)(agh78a05)

Discussion:

REP. KEANE explained the amendment and said it would require paying the prevailing wage to workers at Ethanol plants.

Vote: Motion carried 15-5 by roll call vote with **REP. ANDERSEN**, **REP. BUTCHER**, **REP. HEINERT**, **REP. JONES**, and **REP. RICE** voting no. **REP. FUREY** voted by proxy.

Motion: **REP. KEANE** moved that SB 293 BE CONCURRED IN AS AMENDED.

Vote: Motion carried 13-7 by roll call vote with **REP. ANDERSEN**, **REP. LAMBERT**, **REP. MALCOLM**, **REP. PETERSON**, **REP. RICE**, **REP. ROSS**, and **REP. WAITSCHIES** voting no. **REP. FUREY** voted by proxy.

REP. ROSS moved to adjourn the meeting.

REP. BERGREN asked to reconsider the Ethanol education bill.

The members started to ask whether the tie vote had another supporter but several Committee members pointed out that the motion to adjourn was a non-debatable motion.

CHAIRMAN BUTCHER noted that the meeting had been adjourned, asked for a vote of the Committee and the Committee voted to adjourn.

{Tape: 1; Side: B; Approx. Time Counter: 10.6 - 16.5}

ADJOURNMENT

Adjournment: 4:05 P.M.

REP. EDWARD B. BUTCHER, Chairman

LINDA KEIM, Secretary

EB/lk

Additional Exhibits:

EXHIBIT ([agh78aad0.TIF](#))